POLITICAL AND MUNICIPAL LEGISLATION IN 1899.[1]

During 1899 forty states have held regular[2] and five extra sessions. Only six states have annual sessions, and most states having biennial sessions hold them in odd years, so that usually about three times as many acts are passed in odd as in even years. The *Annual Comparative Summary and Index of State Legislation* for 1899, issued by the New York State Library, contains references to 5,094 acts. These include acts of a general and permanent character only. Bearing in mind that the private, local and temporary acts in many states far exceed in number the general and permanent, we are able to appreciate somewhat vaguely the enormous output of state legislation. Increased legislation may be a sign of strength or weakness. Frequent changes in general laws may arise from the attempt to keep them adjusted to the ever increasing complexity of society, from ability to invent improved methods of regulation, or from capacity to adopt quickly the improved methods of other states. On the other hand, frequent changes in general laws or a large number of private and local laws may be due to the attempt of the legislature to perform administrative and judicial functions or to its incapacity to protect the public interest from private intrigue. The great hindrance to well considered, progressive legislation is that the time of legislators is so taken up with petty local or special measures that few of them have time to develop improved methods of regulation, to consider important measures proposed, or even to inform

[1] Previous papers in this series will be found in the ANNALS for May, 1896, Vol. vii, p. 411; March, 1897, Vol. ix, p. 231; March, 1898, Vol. xi, p. 174, and March, 1899, Vol. xiii, p. 212. Reference to these will help in understanding some of the enactments here described.

[2] The Vermont session held during the last quarter of 1898 is also included in the present review.

themselves as to what an intelligent public opinion is demanding in the way of reform. Nevertheless one cannot review the legislation of the past few years, or even of a single year, without feeling that substantial progress is being made.

Legislature.—An adaptation of the British method of dealing with private and local bills would be an important step in the direction of better legislation. The need of some check is generally recognized. A few states require the publication of the intention to petition for certain classes of special bills before the opening of the session. Vermont, which has required publication of petitions for certain classes of local bills for three weeks in a newspaper of the county to which the bill applies, at least three weeks previous to the session of the legislature, has now added to the list requiring such publication that most fruitful source of special legislation, the amendment of city and village charters.[1]

Seldom if ever has a state court rendered a decision so sweeping in its effects as that of the Idaho supreme court in 1897, which by implication rendered void all but a few of the laws passed at the four previous sessions of the legislature.[2] The legislature of 1899 has therefore had the task of re-enacting most of the acts passed since Idaho became a state. The court decided that the provisions of the constitution requiring three several readings, the printing of bills and an aye and no vote are mandatory, and that the court may go back of the enrolled bill to see if the journals show that these requirements have been complied with.

Wisconsin has attempted the difficult task of securing publicity in regard to lobbying. A public register is to be kept containing the names of all lobbyists, the various bills to oppose or promote which they are employed, and the names of the individuals or corporations by whom they are

[1] Vermont Laws, 1898, ch. 6.
[2] Cohn *v.* Kingsley, 49, p. 985.

employed. Lobbyists are classified as legislative counsel before committees and legislative agents. Within thirty days after the adjournment of the legislature, persons or corporations employing lobbyists must make a detailed statement of expenditures to the secretary of state.[1]

The resolution for submitting the question of biennial sessions to the people proposed by the New York Legislature of 1898 failed of readoption in the legislature of 1899.[2] Only six states, Massachusetts, Rhode Island, New York, New Jersey, Georgia and South Carolina, still have annual sessions, but these states stick to the plan with great persistency. The advantage of the annual session is that it strengthens government at one of its weakest points—rigidity or inadaptability to rapidly changing conditions. The annual session renders possible a closer adjustment of the statute to the actual conditions which it attempts to regulate, and a closer approximation to the ever advancing standards of public opinion.

Direct Legislation.—South Dakota has enacted the legislation necessary to carry into effect the constitutional amendment adopted in November, 1898, providing for the initiative and referendum in state and municipal legislation.[3] Oregon has referred to the legislature of 1901 an amendment providing for the initiative and referendum, on petition of 8 per cent and 5 per cent of the voters respectively.[4] In 1897 Nebraska provided for the initiative and referendum in all local civil divisions, on petition of 15 per cent of the voters, and during the present year Tennessee has provided for the submission of all franchises to popular vote in cities of 36,000,[5] and Indiana that the referendum may be demanded by 40 per cent of the voters in incorporated towns within thirty days after the passage of any

[1] Wisconsin Laws, 1899, ch. 243.
[2] New York Laws, 1898, p. 1549.
[3] South Dakota Laws, 1899. ch. 93 and 94.
[4] Oregon Laws, 1899, p. 1129.
[5] Tennessee Laws, 1899, ch. 204.

ordinance to purchase a water or light plant, or to grant any franchise.[1] The movement for direct legislation is progressing rapidly, and the South Dakota and Nebraska experiments will be watched with interest.

Uniform Legislation.—With the ever expanding circle of social and industrial relations, the need of more uniform regulations is being felt. The railroad, the telegraph and the telephone have created a community of interest which in many things is no longer bounded by state lines, but has become national, or even world wide. The corporation problem, for example, cannot be dealt with satisfactorily by each state acting separately, but must be solved by interstate agreement or national legislation.

In 1890 New York created a uniform legislation commission, and at present similar commissions exist in thirty-one states and territories. In 1896 the national conference of state commissioners on uniform legislation recommended for adoption by the various states *a general act relating to negotiable instruments.* This act was adopted by New York,[2] Connecticut,[3] Florida[4] and Colorado[5] in 1897, by Virginia,[6] Maryland[7] and Massachusetts[8] in 1898, and by North Carolina,[9] North Dakota,[10] Oregon,[11] Rhode Island,[12] Tennessee,[13] Utah,[14] Washington[15] and Wisconsin[16] in 1899. It has also been adopted during 1899 by the United States Congress for the District of Columbia. The 1899 conference

[1] Indiana Laws, 1899, ch. 131.
[2] New York Laws, 1897.
[3] Connecticut Laws, 1897.
[4] Florida laws, 1897.
[5] Colorado Laws, 1897.
[6] Virginia Laws, 1898.
[7] Maryland Laws, 1898.
[8] Massachusetts Laws, 1898.
[9] North Carolina Laws, 1899, ch. 733.
[10] North Dakota Laws, 1899, ch. 113.
[11] Oregon Laws, 1899, p. 18.
[12] Rhode Island Laws, 1899, ch. 674.
[13] Tennessee Laws, 1899 ch. 94.
[14] Utah Laws, 1899, ch. 83.
[15] Washington Laws, 1899, ch. 149.
[16] Wisconsin Laws, 1899, ch. 356.

considered drafts of proposed uniform divorce laws, but deferred final action until 1900.

Suffrage.—The ingenious device adopted by Louisiana in 1898 to disfranchise the illiterate negro without at the same time disfranchising the illiterate white, and still keep within the letter of the fifteenth amendment providing that the right to vote shall not be denied "on account of race, color or previous condition of servitude," has during the present year been submitted to popular vote in August, 1900, by the legislature of North Carolina.[1] The details of the North Carolina amendment differ somewhat from the Louisiana law. The Louisiana law provides an alternative educational or property and a poll tax qualification; the North Carolina proposal, the ability to read and write a section of the constitution, and the payment of a poll tax. But the educational qualification does not apply to any person entitled to vote in any state prior to January 1, 1867, or to a lineal descendant of such a person, provided he registers before November 1, 1908; the Louisiana law provided for registration previous to September 1, 1898. Mississippi adopted an educational qualification in 1890, which went into effect January 1, 1892, and the South Carolina convention of 1895 adopted an alternative educational or property qualification, which went into effect January 1, 1898. Florida, Georgia and Alabama are the only states remaining in the black belt of the South that have not taken steps to restrict the franchise. The Alabama Legislature of this year provided for submitting to popular vote the question of holding a constitutional convention, with a view to restricting the franchise, but serious opposition having developed to the holding of a convention, the governor called an extra session, and the act submitting the question was repealed. The opinion was expressed that a general revision of the constitution was undesirable and that restriction of the franchise should be secured

[1] North Carolina Laws, 1899, ch. 218.

through special amendment. The question of adopting an amendment similar to that of Louisiana and North Carolina came up in the Georgia Legislature at its session held during the last quarter of 1899, but the proposition met a decisive defeat.

Oregon will vote on a woman suffrage amendment in June, 1900.[1] Woman suffrage now exists in Wyoming, Idaho, Utah and Colorado.

Primaries.—The movement for public control of primary elections has made considerable progress during the present year. California, whose primary law of 1897 was declared unconstitutional on account of the provision prescribing the qualifications for voting,[2] has submitted to vote in 1900 a constitutional amendment to obviate this difficulty,[3] and has adopted a new primary law in some respects more advanced than the 1897 law.[4] It provides that primary elections shall be conducted by officers appointed by the local election commissioners, and shall be held at the same time and place for all parties casting 3 per cent of the vote. An official ballot, with party columns and blank spaces to be filled in with names of delegates preferred, is to be provided. The expenses of the primary are a public charge. Minnesota has provided that all nominees in counties of 200,000 shall be chosen at an election conducted by the regular election officers.[5] Any person presenting a petition signed by 5 per cent of the voters may have his name placed on the official ballot. Nebraska has adopted an act providing that the Australian system of balloting shall be used, that primary officers shall be chosen by the party committees, and that the expense of the primary shall be borne by the party.[6] In 1898 Illinois passed a primary law applying

[1] Oregon Laws, 1899, pp. 143 and 1123.
[2] Spier *v.* Baker, 52, p. 659.
[3] California Laws, 1899, joint resolution, 35.
[4] California Laws, 1899, ch. 32, 46, 48 and 52.
[5] Minnesota Laws, 1889, ch. 349.
[6] Nebraska Laws, 1899, ch. 27.

to counties of 125,000 and all others voting to adopt it.[1] This law has been amended by a law optional in counties under 125,000. The old law provided that in each primary district each party should choose from the list of regular election officers three judges and two clerks, members of the party choosing them, to conduct the primary election. The new law simply provides that the judges and clerks shall be designated by the party. Any legal voter may have his name placed on the official ballot for nomination to office. North Dakota,[2] Rhode Island,[3] Tennessee,[4] Utah[5] and Wisconsin[6] have also passed more or less general primary laws, but none of them, with the exception of the Rhode Island law, which applies to Providence and Pawtucket only, show much progress in the direction of public control.

Elections.—State control of elections through a state board elected by the legislature, which has during the past year caused much dissatisfaction and bitterness in Kentucky, has been adopted by North Carolina.[7] This law creates a state board of elections consisting of seven members elected biennially by the general assembly. The state board appoints and has power to remove county boards of three members, who in turn appoint and may remove the registration and election officers. The two judges of election for each precinct must be of different political parties. The general election day has been changed from November to August, and the first election under the new law will be held on the first Thursday in August, 1900, when the constitutional amendment restricting the franchise will also be voted on.

[1] Illinois Laws, 1899, p. 211.
[2] North Dakota Laws, 1899, ch. 38.
[3] Rhode Island Laws, 1899, ch. 662 and 709.
[4] Tennessee Laws, 1899, ch. 407.
[5] Utah Laws, 1899, ch. 79.
[6] Wisconsin Laws, 1899, ch. 341 and 351.
[7] North Carolina Laws, 1899, ch. 507.

Indiana,[1] Minnesota[2] and Nebraska[3] have authorized the use of voting machines, and New York[4] has revised its laws on the subject.

Corrupt Practices.—The first general corrupt practices act of a modern character was passed by New York in 1890. At present laws of this kind exist in sixteen states. During 1899 Nevada[5] has repealed its corrupt practice act of 1895, and Nebraska[6] has been added to the list of states having general laws of this character. The act applies both to nominations and elections and to candidates and political committees. The expenditures of the candidate may not exceed $100 for 5,000 voters; from this number the limit of expenditure increases to $650 for 50,000 or more voters.

Civil Service.—The merit system has made important progress in New York, the first state to adopt it, and has more than recovered the setback given it in 1897 by the Black law, which was planned to "take the starch out" of the system. The 1897 law provided for both a "merit" and a "fitness" examination. The latter was conducted by the appointing officer, and furnished the loophole for a practical revival of the spoils system. Under the new law the fitness examination is abolished.[7]

The constitution provides that "appointments and promotions in the civil service of the state and in all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness," but previous to 1899 the legislature had made provision for the classification of state and city officers and employes only. The act of 1899 authorizes the commission to adopt regulations for the classification of offices and employments in any civil divisions of the state, and the commission has already taken

[1] Indiana Laws, 1899, ch. 155.
[2] Minnesota Laws, 1899, ch. 315.
[3] Nebraska Laws, 1899, ch. 28.
[4] New York Laws, 1899, ch. 466.
[5] Nevada Laws, 1899, ch. 108.
[6] Nebraska Laws, 1889, ch. 29.
[7] New York Laws, 1899, ch. 370.

steps to bring a number of the most populous counties under its regulations.

County and Township Organization.—Two new acts in Indiana introduce some interesting features in county and township government.[1] Heretofore the general management of county affairs has been in the hands of three commissioners elected from three districts, and the entire control of township affairs has been in the hands of the township trustee. The object of the new acts is to separate legislative and administrative functions. A county council of seven members, three of whom are elected at large, is created. The members are elected for four years. The council has control of the finances: it fixes the appropriations and the tax levy and issues bonds. Strangely enough, however, the three commissioners are still retained as the general executive board of the county: it would seem that with the creation of a council of seven members, all purely executive work might best be entrusted to a single individual. A township advisory board of three members is also created, to have charge of the township finances and audit the accounts of the township trustee.

South Carolina has reorganized its peculiar system of county and township government.[2] The 1895 law provided for a county supervisor elected by the people, and a board of three township commissioners in each township appointed by the governor on the recommendation of the senator and representatives from the county. The chairmen of the township boards, together with the county supervisor, formed the county board of commissioners. Under the new scheme the county board of commissioners consists of an elected supervisor and two commissioners appointed by the governor on the recommendation of the members of the legislature from the county. The new board has the duties formerly performed by the county supervisor and

[1] Indiana Laws, 1899, ch. 105 and 154.
[2] South Carolina Laws, 1899, ch. 1, 2 and 86.

board of commissioners and by the township boards of commissioners.

In order to give the more populous townships, devoted in large measure to residential purposes, more extensive powers and a more complex organization, without at the same time changing the existing system in the rural townships, Pennsylvania has divided its townships into two classes: all having a population of 300 to the square mile are in the first class, and the remainder compose the second class.[1] Townships of the first class are given power to construct sewers, pave streets and make other local improvements, and provide police and fire protection. A board of five township commissioners, a treasurer, assessor and auditor are to be elected. New Jersey has adopted a general revision of its laws relating to townships.[2]

General Municipal Legislation.—In 1898 the Ohio Legislature provided for the appointment of a municipal code commission of two persons, to revise the laws relating to the organization of cities and villages, and to prepare a bill for a plan of organization which should be uniform throughout the state, and in which there should be a separation of legislative and executive functions.[3] The report of the commission will be submitted to the legislature of 1900, and its chief conclusions are stated by Edward Kibler, one of its members, to be as follows:[4]

First, the abolition of the classification of cities, and the government of municipal corporations by local councils and not by the state legislature;

Second, the limiting of the functions of city councils strictly to legislative matters; the confining of administrative functions strictly to the executive department of cities, with the mayor as the responsible head; and the filling of all subordinate offices and places by a compulsory system

[1] Pennsylvania Laws, 1899, ch. 86.
[2] New Jersey Laws, 1899, ch. 169.
[3] Ohio Laws, 1898, p. 302.
[4] Municipal Affairs, September, 1899.

of selection known as the merit system of appointment; and,

Third, the nomination and election of all municipal officers, including members of the board of education, upon a non-partisan ballot.

A commission was created in New Jersey to report to the legislature of 1900 a revision and codification of the laws relating to cities and incorporated towns,[1] and a general law was passed for the government of cities under 12,000, which provides that the council may "make such ordinances not contrary to the laws of the state or of the United States as it may deem necessary for the good government, order, protection of persons and property, and for the preservation of the public health and prosperity of said city and its inhabitants."[2] In North Dakota, city councils have been authorized "to adopt such ordinances, not repugnant to the constitution and laws of the state, as the general welfare of the city may demand."[3] South Carolina has empowered cities and towns to adopt any amendment to their charters not inconsistent with the constitution and laws of the state, on petition of a majority of the freeholders, and a majority vote of the electors.[4]

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[1] New Jersey Laws, 1899, ch. 205.
[2] New Jersey Laws, 1899, ch. 52.
[3] North Dakota Laws, 1899, ch. 40.
[4] South Carolina Laws, 1899, ch. 42.